



(4310-4J-P)

## **DEPARTMENT OF THE INTERIOR**

### **Bureau of Indian Affairs**

#### **Confederated Tribes of the Umatilla Indian Reservation – Amendment to Liquor Code**

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice.

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**SUMMARY:** This notice publishes the amendments to the Confederated Tribes of the Umatilla Liquor Code. The Code regulates and controls the possession, sale and consumption of liquor within the Confederated Tribes of the Umatilla Reservation. The land is located on trust land and this Code allows for the possession and sale of alcoholic beverages within the Confederated Tribes of the Umatilla's Reservation. This Code will increase the ability of the tribal government to control the distribution and possession of liquor within their reservation, and at the same time will provide an important source of revenue, the strengthening of the tribal government and the delivery of tribal services.

**DATES:** *Effective Date:* This Amendment is effective 30 days after [insert date of publication in the FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Betty Scissons, Tribal Government Specialist, Northwest Regional Office, Bureau of Indian Affairs, 911 NE 11<sup>th</sup> Avenue, Portland, OR 97232, Phone: (503) 231-6723; Fax: (503) 231-6731; or De Springer, Office of Indian Services, Bureau of Indian Affairs, 1849 C Street NW, MS-4513-MIB, Washington, DC 20240; Telephone (202) 513-7626.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Act of August 15, 1953, Public Law 83-277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice v. Rehner*, 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor ordinances for the purpose of regulating liquor transactions in Indian country. The Board of Trustees of the Confederated Tribes of the Umatilla Indian Reservation duly adopted Resolution No. 10-056 to amend the Confederated Tribes of the Umatilla Indian Reservation Liquor Code on July 12, 2010.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary – Indian Affairs. I certify that the Board of Trustees of the Confederated Tribes of the Umatilla Indian Reservation duly adopted Resolution No. 10-056 to amend the Confederated Tribes of the Umatilla Indian Reservation Liquor Code on July 12, 2010.

Dated: February 9, 2012

Larry Echo Hawk  
Assistant Secretary – Indian Affairs.

The amendment to the Confederated Tribes of the Umatilla Indian Reservation Liquor Code reads as follows:

## CHARTER 1. LIQUOR CODE

### SECTION 1.01. TITLE

This Code shall be the Liquor Code of the Confederated Tribes of the Umatilla Indian Reservation (Confederated Tribes) and shall be referenced as the Liquor Code.

### SECTION 1.02. FINDINGS AND PURPOSE

- A. The introduction, possession, and sale of liquor on Indian reservations has historically been recognized as a matter of special concern to Indian tribes and to the United States. The control of liquor on the Umatilla Indian Reservation remains exclusively subject to the legislative enactments of the Confederated Tribes in its exercise of its governmental powers over the Reservation, and the United States.
- B. Federal law prohibits the introduction of liquor into Indian Country (18 U.S.C. §1154), and authorized tribes to decide when and to what extent liquor transactions, sales, possession and service shall be permitted on their reservation (18 U.S.C. §1161).
- C. The Board of Trustees, as the governing body of the Confederated Tribes pursuant to Article VI, §1 of the Constitution and Bylaws of the Confederated Tribes, have adopted Resolutions to permit the sale and service of liquor at the Wildhorse Resort & Casino and at Coyote Business Park as provided in this Code, but at no other locations.
- D. Pursuant to the authority in Article VI, §1(a) of the Confederated Tribes' Constitution, the Board of Trustees has the authority "to represent the [Confederated] Tribes and to negotiate with the Federal, State and local governments...on...projects and legislation that affect the [Confederated] Tribes".
- E. Pursuant to the authority in Article VI, §1(d) of the Confederated Tribes' Constitution, the

Board of Trustees has the authority “to promulgate and enforce ordinances governing the conduct of all persons and activities within the boundaries of the Umatilla Indian Reservation, providing for the procedure of the Board of Trustees, and carrying out any powers herein conferred upon the Board of Trustees”.

F. The enactment of this Liquor Code to govern liquor sales and service on the Umatilla Indian Reservation, and the limitation of such liquor sales and service at the Wildhorse Resort & Casino and Coyote Business Park, will increase the ability of the Confederated Tribes to control Reservation liquor distribution and possession, and at the same time will provide an important source of revenue for the continued operation of Tribal government and the delivery of governmental services, as well as provide an amenity to customers at the Wildhorse Resort & Casino.

G. The Confederated Tribes have entered into a Memorandum of Understanding (MOU) with the Oregon Liquor Control Commission to deal with governmental issues associated with the licensing and regulation of liquor sales on the Umatilla Indian Reservation.

#### SECTION 1.03. DEFINITIONS

A. Unless otherwise required by the context, the following words and phrases shall have the designated meanings.

1. “Alcohol”. That substance known as ethyl alcohol, hydrated oxide or ethyl, spirits or wine as defined herein, which is commonly produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilutions and mixtures of those substances.
2. “Coyote Business Park”. Shall include Coyote Business Park North, South and East, but shall not include the Arrowhead Travel Plaza.

3. “Wildhorse Chief Executive Officer”. That person appointed by the Confederated Tribes to manage the Wildhorse Resort & Casino.
4. “Liquor” or “Liquor Products”. Includes the four varieties of liquor herein defined (alcohol, spirits, wine, and beer) and all fermented, spirituous, vinous, or malt liquor, or a combination thereof, and mixed liquor, a part of which is fermented, spirituous, vinous, or malt liquor or otherwise intoxicating in every liquid or solid or semi-solid or other substance patented or not containing alcohol, spirits, wine, or beer, and all drinks of potable liquids and all preparations or mixtures capable of human consumption, and any liquid, semi-solid, solid, or other substance, which contains more than one percent (1%) of alcohol by weight shall be conclusively deemed to be intoxicating.
5. “Wildhorse Resort & Casino”. Shall be the casino, hotels, golf course, and RV park located on the 640 acre Wildhorse site located on the Umatilla Indian Reservation which is more specifically described in Exhibit 1 to the Tribal-State Compact between the Confederated Tribes and the State of Oregon.
6. “Sale” and “Sell”. Includes exchange, barter, and traffic; and also the supplying or distribution by any means whatsoever, of liquor or any liquid known or described as beer or by any name whatever commonly used to describe malt or brewed liquor or wine, by any person to any other person; and also includes the supply and distribution to any other person.
7. “Spirits”. Any beverage which contains alcohol obtained by distillation, including wines exceeding seventeen percent (17%) of alcohol by weight.
8. “Wine”. Any alcoholic beverage obtained by fermentation of fruits, grapes, berries, or

any other agricultural product containing sugar, to which any saccharin substances may have been added before, during or after fermentation, and containing not more than seventeen percent (17%) of alcohol by weight, including sweet wines fortified with wine spirits, such as port, sherry, muscatel, and anglican, not exceeding seventeen percent (17%) of alcohol by weight.

#### SECTION 1.04. JURISDICTION

To the extent permitted by applicable law, the Confederated Tribes asserts jurisdiction to determine whether liquor sales and service are permitted within the boundaries of the Umatilla Indian Reservation. As provided in section 1.06 of this Code, liquor sales and service is only permitted at the Wildhorse Resort & Casino facilities and in the Coyote Business Park under this Code. Nothing in this Code is intended nor shall be construed to limit the jurisdiction of the Confederated Tribes to all lands within the boundaries of the Umatilla Indian Reservation.

#### SECTION 1.05. RELATION TO OTHER LAWS

All prior codes, ordinances, resolutions and motions of the Confederated Tribes regulating, authorizing, prohibiting, or in any way dealing with the sale or service of liquor are hereby repealed and are of no further force or effect to the extent they are inconsistent or conflict with the provisions of this Code. Specifically, amendments to the Criminal Code to make it consistent with this Liquor Code have been approved by Resolution 05-095 (October 3, 2005). No Tribal business licensing law or other Tribal law shall be applied in a manner inconsistent with the provisions of this Code.

#### SECTION 1.06. AUTHORIZED SALE AND SERVICE OF LIQUOR

A. Liquor may be offered for sale and may be served on the Umatilla Indian Reservation only at the following locations:

1. Wildhorse Casino. In the Wildhorse Casino, liquor may be sold or served only in the following areas: lounge(s), restaurant(s), bingo/multipurpose hall when used for entertainment, food service, or convention/meeting purposes, conference/meeting room facility, entertainment facilities constructed within or adjacent to the Casino building and on casino premises in connection with special events (*i.e.*, concert, rodeo event, car shows, *etc.*). All such sales and service of liquor shall be consistent with the Tribal-State Compact.
2. Wildhorse Golf Course. In the Wildhorse Golf Course, liquor may be sold or served only in the following areas: clubhouse and on the golf course.
3. Wildhorse Hotels. In the Wildhorse Hotels, liquor may be sold or served only in the following areas: hotel meeting rooms and in hotel rooms by guest use of room service, *etc.*
4. Wildhorse RV Park. In the Wildhorse RV Park, liquor may be sold or served only in the following areas: in common areas at special events and in individual RVs.
5. Coyote Business Park. In the Coyote Business Park, liquor may be sold or served by any Coyote Business Park lessee if liquor sales and service is permitted in the lease between the lessee and the Confederated Tribes.

#### SECTION 1.07. PROHIBITIONS

- A. General Prohibitions. The commercial introduction of liquor for sales and service, other than as permitted by this Code, is prohibited within the Umatilla Indian Reservation, and is hereby declared an offense under Tribal law. Federal liquor laws applicable to Indian Country shall remain applicable to any person, act, or transaction which is not authorized by this Code and

violators of this Code shall be subject to federal prosecution as well as to legal action in accordance with the law of the Confederated Tribes.

B. Age Restrictions. No person shall be authorized to serve liquor unless they are at least 21 years of age. No person may be served liquor unless they are 21 years of age.

C. Off Premises Consumption of Liquor.

1. All liquor sales and service authorized by this Code at the Wildhorse Resort & Casino shall be fully consumed within the areas of the Wildhorse Resort & Casino as set forth in section 1.06 of this Code. At the Wildhorse Resort & Casino, no open containers of liquor, or unopened containers of liquor in bottles, cans, or otherwise may be permitted outside of the above-described premises.

2. Liquor sales and service at Coyote Business Park shall be conducted in strict compliance with the lease between the Coyote Business Park lessee and the Confederated Tribes.

D. No Credit Liquor Sales. The sales and service of liquor authorized by this Code shall be upon a cash basis only. For purposes of this Code, payment for liquor on a cash basis shall include payment by cash, credit card, or check.

#### SECTION 1.08. CONFORMITY WITH STATE LAW

A. Authorized liquor sales and service on the Umatilla Indian Reservation shall comply with Oregon State liquor law standards to the extent required by 18 U.S.C. §1161.

B. Wildhorse Resort & Casino. The Wildhorse Chief Executive Officer shall be responsible for ensuring that all OLCC license requirements are satisfied, that the license(s) is renewed on an annual basis, and that all reasonable and necessary actions are taken to sell and serve liquor to Wildhorse patrons in a manner consistent with this Code, applicable State law, and the

Tribal-State Compact. The Wildhorse Chief Executive Officer shall also be authorized to purchase liquor from the State or other source for sale and service within the Wildhorse Resort & Casino. The Wildhorse Chief Executive Officer is further authorized to treat as a casino expense any license fees associated with the OLCC liquor license.

C. Coyote Business Park. The Coyote Business Park lessee authorized to sell or serve liquor as provided in section 1.06(A)(5) of this Code, shall be responsible for insuring that all OLCC license requirements are satisfied, that the license(s) is renewed on an annual basis, and that all reasonable and necessary actions are taken to sell and serve liquor in a manner consistent with this Code and applicable Tribal and State law.

#### SECTION 1.09. PENALTY

Any person or entity possessing, selling, serving, bartering, or manufacturing liquor products in violation of any part of this Code shall be subject to a civil fine of not more than \$500 for each violation involving possession, but up to \$5,000 for each violation involving selling, bartering, or manufacturing liquor products in violation of this Code, and violators may be subject to exclusion from the Umatilla Indian Reservation. In addition, persons or entities subject to the criminal jurisdiction of the Confederated Tribes who violate this Code shall be subject to criminal punishment as provided in the Criminal Code. All contraband liquor shall be confiscated by the Umatilla Tribal Police Department (UTPD). The Umatilla Tribal Court shall have exclusive jurisdiction to enforce this Code and the civil fines, criminal punishment and exclusion authorized by this section.

#### SECTION 1.10. SOVEREIGN IMMUNITY PRESERVED

Nothing in this Code is intended or shall be construed as a waiver of the sovereign immunity of the Confederated Tribes. No manager or employee of the Confederated Tribes or the Wildhorse

Resort & Casino shall be authorized, nor shall they attempt, to waive the sovereign immunity of the Confederated Tribes pursuant to this Code.

#### SECTION 1.11. SEVERABILITY

If any provision or provisions in this Code are held invalid by a court of competent jurisdiction, this Code shall continue in effect as if the invalid provision(s) were not a part hereof.

#### SECTION 1.12. EFFECTIVE DATE

This Code shall be effective following approval by the Board of Trustees and approval by the Secretary of the Interior or his/her designee and publication in the Federal Register as provided by federal law.

[FR Doc. 2012-4131 Filed 02/21/2012 at 8:45 am; Publication Date: 02/22/2012]